



South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

January 26, 1998

DOCKET FILE COPY ORIGINAL

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Re: CC Docket No. 96-45

Dear Ms. Salas:

Enclosed are an original plus five copies of the South Dakota Public Utilities Commission's Comments to be filed in the above docket. Please date-stamp one copy and return it in the enclosed, self-addressed stamped envelope.

Sincerely,

William Bullard, Jr.
Executive Director

CGB:cgb
Enclosure
cc: Parties of Record
Congress

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|-------------------------------------|---|-----------------------------|
| In the Matter of |) | CC Docket No. 96-45 |
| |) | [DA 98-2] |
| Federal-State Joint Board on |) | |
| Universal Service |) | (Report to Congress) |

**COMMENTS OF THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

Pursuant to Sections 1.49, 1.415, and 1.419 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. §§ 1.49, 1.415, and 1.419 (1997), the South Dakota Public Utilities Commission respectfully submit the following comments addressing the FCC Common Carrier Bureau's January 5, 1998 Public Notice DA 98-2 titled "Common Carrier Bureau Seeks Comment for Report to Congress on Universal Service Under the Telecommunications Act of 1996" released in the above captioned proceeding.

The Common Carrier Bureau ("CCB" or "Bureau") notice requests comments on five specific issues. All five issue statements posed focus on the FCC's interpretations of the universal service provisions found in § 254 of the new legislation. By requiring a Federal State Joint Board, Congress recognized that every issue raised under this docket will have a significant impact on intrastate operations and local rates. Significantly, at least one of the issues raised in this notice - the use of universal service funds to reduce interstate access charges - was not presented to or considered by the Joint Board.

The South Dakota Public Utilities Commission ("SDPUC") will comment on issue 5 and will address two other concerns not included in the CCB notice.

A. CCB Issue 5: The Commission's decisions regarding the percentage of universal service support provided by the federal mechanisms and the revenue base from which such support is derived.

Response: The 75-25% State-Federal High Cost Funding split proposed by the FCC that had not been recommended by the Joint Board is an issue of intense interest to the SDPUC. The Telecommunications Act of 1996 ("Act") states that the services defined by the Commission are supported by the Federal universal support mechanisms. The definition of universal service as stated in the Federal/State Joint Board's Recommended Decision is a Federal universal service definition. The universal service fund will be based on providing this level of service. Therefore, this level of universal service should be supported by the Federal support mechanisms as stated in the Act. The Act does not allow States to utilize the Federal universal service fund to support a State's definition and standard for universal service. The Act also states that there should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service. This means that the Federal support fund must be sufficient to fund the federal definition of universal service at the 100% level not 25%. Any support less than 100% does not appear to be sufficient as required by the Act.

Other Issues That Should Be Addressed in the report to Congress:

B. The Commission under its Access Charge Reform Order (CC Docket No.96-262 adopted May 7, 1997 and released May 16, 1997) directs incumbent local exchange companies to use any universal service support received from the new universal service support mechanisms to reduce or satisfy the interstate access charge revenue requirement.

Response: The SDPUC is very concerned with the impact the Access Charge Reform Order will have on Universal Service which it believe is the most serious problem with universal service support. Paragraph 381 of the Order directs incumbent local exchange companies to use any universal service support received from the new universal service support mechanisms to reduce or satisfy the interstate access charge revenue requirement. This means that universal service support, no matter what the size of the fund or who contributes to the fund, will no longer be used to maintain affordable local rates and support local exchange companies networks. The fund will be used to reduce interstate access charges that may or may not be passed on to the end-user through lower toll rates. Universal support as we know it today will now become the responsibility of the states to support 100%. Why should or why would any state want to contribute to a fund

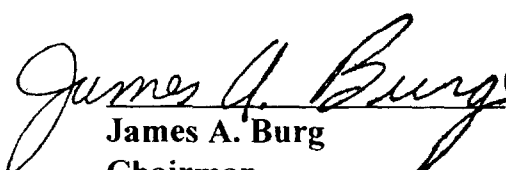
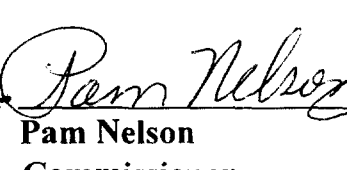
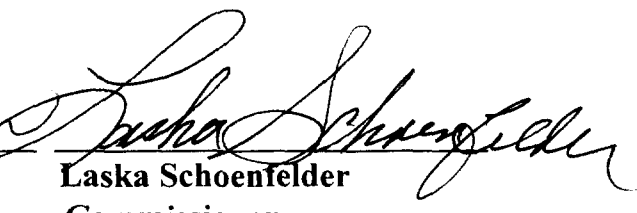
that is going to be used to reduce interstate access charges and not support universal service? This approach taken by the FCC changes the complete concept of Universal Service Support.

C. The Current Triparte Structure for Administering the Various Federal Universal Service Programs is Administratively Cumbersome and Should Be Revised.

Response: The SDPUC is concerned with the adoption of the three part structure for administrating the Federal universal service programs. The overhead and associated administrative expenses for operating three separate entities [NECA, SLC subsidiary, and HCC subsidiary] are substantially higher when compared to the contemplated expenses of operating one single entity. The SDPUC believes that the triparte structure will result in a duplication of effort that will compromise efficiency. It also appears that both USAC and the Corporations have been assigned the responsibility to perform other unenumerated tasks that inevitably will arise. Based on these comments, the SDPUC requests that the FCC reconsider the establishment of the additional corporate entities.

The SDPUC respectfully requests that the FCC consider revising its orders to conform to the positions stated in this filing and incorporate SDPUC's concerns in its Report to Congress.

Respectfully submitted by the South Dakota Public Utilities Commission this 26th day of January 1998.

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